

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION (AKRON)**

SHIELDMARK, INC.
P.O. Box 16618
Rocky River, OH 44116

Plaintiff,

VS.

Case No.:

PROFERO, INC.
9270 Corsair Road, Suite 18
Frankfurt, IL 60423

and

5S SUPPLY
9270 Corsair Road, Suite 18
Frankfurt, IL 60423

Judge

Defendants.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff ShieldMark, Inc. (“ShieldMark”), for its Complaint against Defendant Profero, Inc. and Defendant 5S Supply (collectively “Defendants”) by its undersigned counsel, hereby demands a jury trial and alleges as follows:

PARTIES

1. ShieldMark is a corporation organized under the laws of the State of Ohio, with its principal place of business in Rocky River, Ohio.

2. Upon information and belief, Defendant Profero, Inc. is an Illinois corporation headquartered at 9270 Corsair Road, Suite 18, Frankfurt, Illinois 60423.

3. Upon information and belief, Defendant 5S Supply is “a corporation licensed and operating in the state of Illinois.” See Exhibit A. However, upon reasonable inquiry, ShieldMark was unable to locate any license with the Illinois Secretary of State reflecting the same.

4. Upon information and belief, Defendants are at least partially related entities, inasmuch as Defendant 5S Supply’s website is registered in the name of Defendant Profero, Inc.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a), in that this is an action for patent infringement arising under the United States Patent Laws at Title 35, United States Code, 35 U.S.C. § 271 *et seq.*

6. Defendants have committed acts of patent infringement in the Federal District for the Northern District of Ohio and elsewhere throughout the United States. This court has personal jurisdiction over the Defendants because of these acts of infringement, as well as the Defendant’s efforts that purposefully placed infringing products into the stream of commerce through retailers and/or distribution channels which Defendants knew or reasonably could have foreseen that such products would be purchased by residents of Ohio

and this District. ShieldMark's cause of action arises out of these activities which have caused and continue to cause injury to ShieldMark within this District.

7. Venue is proper in this Court under 28 U.S.C. §§ 1391(c) and 1400(b), because the events giving rise to this action took place within this District.

PATENT INFRINGEMENT

8. ShieldMark realleges and reavers the allegations contained in the preceding paragraphs.

9. ShieldMark is the owner by assignment of U.S. Patent No. 8,088,480 issued on January 3, 2012 to Thomas R. Goecke and entitled "Adhesive Tape" (the '480 Patent) and reexamined on December 3, 2013. A true and accurate copy of the '480 Patent and its Reexamination Certificate are attached as Exhibit B.

10. ShieldMark currently advertises and sells its patent protected adhesive tape at the domain address www.MightyLine.net.

11. ShieldMark has worked since 2006 to establish the enormous goodwill associated with the "Mighty Line" mark in the United States.

12. Defendants have made, used, sold, offered for sale, and/or imported into the United States "BesTape" adhesive tape that infringes upon at least claims 5-6 and 10 of the '480 patent.

13. Through its manufacture, use, sale, advertising, or importation of infringing "BesTape" adhesive tape, Defendants committed acts of patent infringement throughout the United States against rights held by ShieldMark.

14. The sale of infringing "BesTape" adhesive tape by Defendants has a direct impact on ShieldMark's market share.

15. For every infringing sale of “BesTape” by Defendants, ShieldMark is deprived of revenue to which it is entitled.

16. If Defendants are allowed to continue to produce and sell “BesTape” to consumers, ShieldMark will suffer irreparable harm based on both the erosion to its market share and the damage to its reputation as an innovator and supplier of high quality adhesive tape.

17. Defendants have directly infringed, contributed to, and/or induced infringement of one or more claims of the ‘480 Patent by making, using, offering to sell, selling within the United States, and/or importing into the United States adhesive tapes including those presently sold under the name “BesTape”.

18. On information and belief, Defendants’ infringement of the ‘480 Patent has been willful and deliberate.

19. As a direct and proximate result of Defendants’ infringement of the ‘480 Patent, ShieldMark has suffered and continues to suffer damages.

20. ShieldMark has no adequate remedy at law and will be irreparably injured unless Defendants’ acts of infringement are enjoined by this Court.

WHEREFORE, ShieldMark respectfully requests that the Court enter judgement in its favor and an award of the following relief:

A. Preliminary and permanent injunctive relief prohibiting Defendants, their agents, employees, licensees, and all those in privity with Defendants from engaging in acts of infringement of the ‘480 Patent;

B. Judgment that Defendants have infringed the ‘480 Patent in violation of 35 U.S.C. § 271;

C. An award of all damages recoverable under the United States patent laws pursuant to 35 U.S.C. § 284, up to and including treble the amount of actual damages assessed for any willful infringement;

D. An award of attorneys' fees to the extent permitted under 35 U.S.C. § 285, including a judgment that this is an exceptional case;

E. An award of all taxable costs; and

F. Such other and further legal and equitable relief as the Court deems appropriate.

DEMAND FOR A JURY TRIAL

Plaintiff ShieldMark hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

Dated: January 27, 2017

/s/ Joseph A. Sebolt

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